

LAW ENFORCEMENT PROFESSIONAL STANDARDS SUBCOMMITTEE
Professional Development Center
West Virginia State Police Academy
Dunbar, West Virginia

June 30, 2016

MEMBERS PRESENT:

Sheriff Tom McComas
Mayor John Manchester
Chief Steve Walker
Retired Chief Steve Stephens
Ms. Patti Hamilton

MEMBERS REPRESENTED:

Colonel Jay Smithers by
Captain David Lee
Colonel Jerry Jenkins by
Lieutenant Warren Goodson
Chief Ray Fridley by
Chief Brad Rinehart
First Lieutenant James Lee by
First Sergeant Aaron D. Nichols
Retired Lieutenant Terry Miller by
Retired Corporal Dave Gentry
Ms. MaryKaye Jacquet by
Retired Sergeant J. L. Johnson

STAFF:

Retired Captain Chuck Sadler
Ms. Leslie Boggess
Ms. Kimberly Mason
Ms. Judy Strickland

GUESTS:

Mr. Stephen R. Connolly
Ms. Jessica Smith

The June 30, 2016 meeting of the Law Enforcement Professional Standards (LEPS) Subcommittee was called to order at 9:03 a.m. by the Chair, Retired Chief Stephens. There were eleven (11) members either present or represented which represents a quorum of the Subcommittee membership, at the start of the meeting. Chief Walker left the meeting at 10:30 a.m. and did not return. Deputy Attorney General Connolly was in attendance at this meeting, as the legal advisor for the LEPS Subcommittee, along with his guest, Ms. Smith, a law student at WVU interning with the Attorney General's Office during the summer.

The following actions were taken during this meeting in reference to the agenda items scheduled:

1. Agenda Item 1 – Motion made, Chief Walker, seconded, Retired Sergeant Johnson to approve the meeting minutes of the April 26-27, 2016 Rules Review meeting, the April 28, 2016 LEPS Subcommittee meeting and the May 16, 2016 LEPS Subcommittee meeting. The motion was approved unanimously without any discussion and no negative votes cast.
2. Agenda Item 2 – Retired Captain Sadler provided an update on the LEPS Fund Account. He noted that there is a balance of \$191,372.14 not obligated in the fund. Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, that the Financial Report be accepted as given. The motion was approved unanimously without any discussion and no negative votes cast.
3. Agenda Item 3 – Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, for the approval of applications of individuals listed as certified law enforcement instructors in the areas of expertise listed. The motion was approved unanimously without any discussion and no negative votes cast.
4. Agenda Item 4 – Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, for the approval of applications for additional areas of expertise to be approved for previously certified law enforcement instructors. The motion was approved unanimously without any discussion and no negative votes cast.
5. Agenda Item 5A – Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, that the classes listed in the agenda packet be approved for annual in-service credit for the 2016 Training Year period that ends June 30, 2016. The motion was approved unanimously without any discussion and no negative votes cast.
6. Agenda Item 5B – Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, that the classes listed in the agenda packet be approved for supervisory in-service credit for the 2016 Training Year period that ends

June 30, 2016. The motion was approved unanimously without any discussion and no negative votes cast.

7. Agenda Item 5C – Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, that the classes listed in the agenda packet be approved for personal in-service credit for the 2016 Training Year period that ends June 30, 2016. The motion was approved unanimously without any discussion and no negative votes cast.
8. Agenda Item 5D – Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, that the classes listed in the agenda packet be approved for annual in-service credit for the 2017 Training Year which runs July 1, 2016 – June 30, 2017. Sheriff McComas did have a question concerning the financial training being presented by the Huntington Police Department. Retired Captain Sadler advised that this was a class previously approved by the members and was being recommended in that it addressed quality of life and wellness for officers. The motion was approved unanimously without any further discussion and no negative votes cast.
9. Agenda Item 5E – Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, that the classes listed in the agenda packet be approved for supervisory in-service credit for the 2017 Training Year which runs July 1, 2016 – June 30, 2017. The motion was approved unanimously without any discussion and no negative votes cast.
10. Agenda Item 5F – Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, that the classes listed in the agenda packet be approved for personal in-service credit for the 2017 Training Year which runs July 1, 2016 – June 30, 2017. The motion was approved unanimously without any discussion and no negative votes.
11. At the indication of the Retired Chief Stephens that there were personnel related matters to be discussed under Agenda Items 6 through 10B 1-7 there was a motion made by Sheriff McComas, seconded, Chief Rinehart, and approved unanimously without discussion for the Subcommittee to go into executive session at 9:07 a.m. Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, and approved unanimously without discussion for the Subcommittee to come out of executive session at 12:40 p.m., no action having been taken during the executive session on any of the items discussed. The Chair then moved to address, as necessary, the agenda items that had been discussed while in executive session.
12. Agenda Item 6A – Officer #1 – Retired Chief Stephens advised that this addressed a Stop Work Order issued to a law enforcement agency with non-certified individuals carrying out the duties of sworn law enforcement officers.

Presented for informational purposes. No action required. Retired Captain Sadler will advise members if any similar problem continues with this agency.

13. Agenda Item 6B – Officer #2 – Retired Chief Stephens advised that this involved a Stop Work Order issued to sworn officer dismissed from primary employer and employed as part-time employer with another department. Officer will need to appear before the LEPS Subcommittee before being employed again as a law enforcement officer. Presented for informational purposes. No action required.
14. Agenda Item 6C – Officer #3 – Retired Chief Stephens advised that this involved a Stop Work Order. No action required on the stop work order. A determination will be made during the discussion of Agenda Item 10. B. 3. as to the reactivation review required in this matter.
15. Agenda Item 7A – Retired Chief Stephens advised that this item had been presented for informational purposes to the Subcommittee members and as such that there was no action required on it.
16. Agenda Item 7B – Retired Chief Stephens asked if there was a motion to be made concerning this officer's attendance in an entry level training class. This officer had appeared before the Subcommittee for a criminal conviction review as soon as the members went into executive session due to his activation to military duty to assist his Guard unit in flood relief efforts. Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson, that this officer be allowed to enter the entry level training class at the Academy to gain certification as a West Virginia law enforcement officer. The motion was approved unanimously without any discussion and no negative votes cast.
17. Agenda Item 8 – Request to attend the Entry Level Training Program as a Private Citizen or be approved to be employed once again as a sworn officer following a department from the entry level training program. None presented. No action required.
18. Agenda Item 9. A. – Officer #1 – Retired Chief Stephens advised that this former officer's appeal of decision to revoke certification has been sent to Mr. Staton, Executive Director of the Governor's committee on Crime, Delinquency and Correction (GCCDC). Tentative date for hearing is the first week of August. Presented for informational purposes only. No action required.
19. Agenda Item 9. B. – Officer #2 – Retired Chief Stephens advised that Director Staton's decision to uphold revocation of certification by LEPS Subcommittee is on appeal to Raleigh County Circuit Court. All paperwork has been filed as required. Presented for informational purposes only. No action required.

20. Agenda Item 9. C. – Officer #3 – Retired Chief Stephens asked if there was a motion to be made as to the action to take concerning this former officer who had asked that in lieu of the revocation action previously taken concerning him that the members instead accept the surrender of his certification. Motion made, First Sergeant Nichols, seconded, Mayor Manchester, not to accept the surrender of this former officer's certification as a West Virginia law enforcement officer as he had offered during the March 31, 2016 Subcommittee meeting and to allow the certification revocation that was approved at the January 28, 2016 meeting to remain in effect. Position Statement will be prepared and sent to this individual through his attorney. The motion was approved unanimously with no further discussion and no negative votes cast.
21. Agenda Item 9. D. – Officer #4 – This officer did not appear for his certification review before the Subcommittee. Retired Chief Stephens asked if there was a motion to be made concerning the status of his certification as a West Virginia law enforcement officer. Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson to revoke this officer's certification as a West Virginia law enforcement officer based on the felony related convictions that he had been found guilty of which had been reinstated by a decision of the West Virginia Supreme Court and that a Position Statement be prepared reflecting this action. The motion was approved unanimously with no discussion and no negative votes cast.
22. Agenda Item 9. E. – Officer #5 – This officer did not appear at his certification surrender review. Retired Chief Stephens asked if there was a motion to be made concerning the status of his certification as a West Virginia law enforcement officer. Motion made, Sheriff McComas, seconded, Chief Rinehart, to accept the surrender of this officer's certification as a result of his request that it so be surrendered and the circumstances concerning his resignation as an officer and that a Position Statement be prepared reflecting this action. The motion was approved unanimously with no discussion and no negative votes cast.
23. Agenda Item 10. A. – Retired Chief Stephens asked if there was a motion to be made concerning the temporary reactivation status of the officers listed. Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson to approve the full reactivation of the law enforcement certification of the eighteen (18) law enforcement officers listed in the agenda packet. The motion was approved unanimously with no discussion and no negative votes cast.
24. Agenda Item 10. B. – Retired Chief Stephens noted that this agenda item addressed the review of reactivation requests where an officer had left his or her prior agency with standing in question. He then moved to address the officers listed under this agenda item.

25. Agenda Item 10. B. 1. – Officer #1 – Retired Chief Stephens noted that the offer of employment to this individual had been rescinded. As such this item was provided for informational purposes. No action required.
26. Agenda Item 10. B. 2. – Officer #2 – Retired Chief Stephens asked if there was a motion to be made concerning the reactivation of the certification of this former officer. Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson to grant full reactivation of certification to this officer who resigned his former department pending investigation. The motion was approved unanimously with no discussion and no negative votes cast.
27. Agenda Item 10. B. 3. – Officer #3 – Retired Chief Stephens asked if there was a motion to be made concerning the reactivation of the certification of this former officer. Motion made, First Sergeant Nichols, seconded, Sheriff McComas to approve full reactivation of certification of this officer who was terminated from his last employer. The motion was approved unanimously with no discussion and no negative votes cast.

Break by the Subcommittee members by consensus agreement at 10:47 a.m.
Returned to executive session at 11:01 a.m.

28. Agenda Item 10. B. 4. – Officer #4 – Retired Chief Stephens asked if there was a motion to be made concerning the reactivation of the certification of this former officer. Motion made, Sheriff McComas, seconded, Mayor Manchester, to table this officer's request for reactivation until there is an offer of either actual or conditional employment. The motion was approved unanimously with no discussion and no negative votes cast.
29. Agenda Item 10. B. 5. – Officer #5 – Retired Chief Stephens asked if there was a motion to be made concerning the reactivation of the certification of this former officer. Motion made, Sheriff McComas, seconded, Retired Sergeant Johnson to approve the full reactivation of this officer's certification as it had been determined that his termination from his last employer had been for policy related violations that did not rise to the level of a certification related action being taken. The motion was approved unanimously with no discussion and no negative votes cast.
30. Agenda Item 10. B. 6. – Officer #6 – Retired Chief Stephens asked if there was a motion to be made concerning the reactivation of the certification of this former officer. Motion made, Sheriff McComas, seconded Retired Sergeant Johnson to approve full reactivation of certification of this officer after a review had been made as to why he had been released from his prior employer. The motion was approved unanimously with no discussion and no negative votes cast.

31. Agenda Item 10. B. 7. – Officer #7 – Retired Chief Stephens asked if there was a motion to be made concerning the reactivation of the certification of this former officer. Motion made, Retired Corporal Gentry, seconded, Retired Sergeant Johnson, to approve the reactivation of this officer's certification after he resigned his position as a law enforcement officer due to an alleged off duty assault. The motion was approved unanimously with no discussion and no negative votes cast.
32. Agenda Item 11 – Determination of required training for recertification following separation of more than sixty (60) months as a West Virginia law enforcement officer. There were none, no action required.
33. Agenda Item 12 – Equivalent certification program reviews as to decisions made. There were none, no action required.
34. Agenda Item 13 – Review of officer's ability to enter and complete the entry level training program. There were none, no action required.
35. Agenda Item 14 – Request by an officer for accommodations relating to attendance in the entry level training program. There were none, no action required.
36. Agenda Item 15 – FOIA requests and responses – Retired Captain Sadler reviewed with the members the information that had been sought under this request and what had been provided in response to it. Provided for informational purposes only. No action required.
37. Agenda Item 16 – Retired Captain Sadler informed the Subcommittee that Fairmont State University Police Department has filed an appeal to the denial of their request to operate a basic academy program. Director Staton will be addressing that appeal. Provided for informational purposes. No action required.
38. Agenda Item 17 – Retired Captain Sadler provided an update on the officers short on their 2016 in-service training and/or firearms qualifications. It is projected that any officer determined to short on either will be invited to speak with the members during the July 28, 2106 Subcommittee meeting. Decision on action to be taken for officers determined not to be in compliance with their annual in-service and/or firearms qualifications will be made by the members during that meeting. Provided for informational purposes. No action required.
39. Agenda Item 18 – Retired Captain Sadler advised that this item addressed a grant reimbursement request and application for funding to the West Virginia Commission on Drunk Driving Prevention (CDDP) as to the impaired driver related training presented during each entry level training class. He noted that this was a continuing arrangement with the CDDP which had been very

helpful to the program and to the funding level of the LEPS Fund. Provided for informational purposes. No action required.

40. Agenda Item 19 – Retired Chief Stephens noted that this item address the status of Legislative Rules related actions. He asked Retired Captain Sadler to address each.
41. Agenda Item 19. A. _ Retired Captain Sadler noted that the proposed changes to Legislative Rule 149-2 that had originally been vetoed by the Governor, veto action being against another rule in the “bundled” legislation, had passed during the 2016 Legislative Special Session. Governor Tomblin will be signing. Will be final filed with the Secretary of State’s Office to put into effect. Subcommittee members will need, during future meetings, to determine the course of qualification fire they wish to set in place. Recommended that the course of fire will take effect with the start of the 2018 Training Year on July 1, 2017 to allow for sufficient notice of the setting of the course. Provided for informational purposes. No action required.
42. Agenda Item 19. B. – Retired Captain Sadler noted that this item addressed the draft of proposed changes to 149-2 to be considered during the 2017 Legislative Session. Primarily addresses cleanup related changes to keep rules fully current with accepted practices concerning law enforcement training and certification. Will be published by July 27, 2016 with the Secretary of State and law enforcement contacts for 30 day public comment period. Provided for informational purposes. No action required.
43. Agenda Item 20 – Retired Chief Stephens noted that this item addressed the class schedule for the 167th Basic Entry Level Training Class being conducted at the WVSP Academy from June 13, 2016 to September 30, 2016. Provided for informational purposes. No action required.
44. Agenda Item 21 – Retired Chief Stephens noted that this item was the Schedule of Basic Training Classes for calendar year 2017. Retired Captain Sadler noted the ongoing appreciation of the presentation of four such classes annually which allowed there to be no delay of officers to enter this training. Presented for informational purposes. No action required.
45. Agenda Item 22 – Retired Chief Stephens noted that this agenda item addressed correspondence matters addressing the actions of the LEPS Program personnel on behalf of the Subcommittee members. They were presented in Item 22. A. through Item 22. C. He asked Captain Sadler to review each item. Provided for informational purposes. No action required.
46. Agenda Item 22. A. – Item #1 – Retired Captain Sadler noted that this item addressed a request from an individual who wanted to file complaints against several members of the West Virginia State Police. Retired Captain Sadler

responded to this individual by informing him that LEPS does not investigate or handle complaints involving individual police officers. He gave the individual the contact information of the Professional Standards Unit of the West Virginia State Police. Provided for informational purposes. No action required.

- 47. Agenda Item 22. A. – Item #2 – Retired Captain Sadler noted that he had received a request from a certified law enforcement officer who is seeking employment as a police officer. Captain Sadler informed him that his certification is inactive at the present time, and he would have to appear before the LEPS Subcommittee for approval to reactivate once a law enforcement agency shows intent to hire him. Provided for informational purposes. No action required.
- 48. Agenda Item 22. B. – Retired Captain Sadler that this item addressed letters sent by Ms. Mason to those individuals failing the PAT and/or those that were no shows. Provided for informational purposes. No action required.
- 49. Agenda Item 22. C. – Retired Captain Sadler that this item addressed correspondence sent out by Ms. Mason with reference to the resignation of officers from the 167th Basic Class. Provided for informational purposes. No action required.
- 50. Agenda Item 23 – Retired Chief Stephens noted that the next LEPS Subcommittee meeting is scheduled for Thursday, July 28, 2016, at 9:00 a.m. at the PDC.

There being no further agenda items set for discussion a motion was made by First Sergeant Nichols, seconded Retired Sergeant Johnson to adjourn this meeting. The motion passed unanimously with no discussion. Meeting adjourned at 12:54 p.m.